IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2459 OF 2005.

P.V.Krishna Reddy. ... Appellant.

Versus.

The Andhra Association, Pune
and others. ... Respondents.

Shri Sugandh B.Dushmukh for the Appellant.

CORAM : ABHAY S.OKA, J.

DATED : 14th MARCH, 2006.

P.C.:

1. Heard the learned Advocate for the Appellants.

This appeal is preferred for challenging the order passed by the learned Joint District Judge in an application under section 72 of the Bombay Public Trust Act, 1950. In view of the law laid down by the Division Bench of this Court, this Appeal will be governed by the constraints imposed by section 100 of the Code of Civil Procedure, 1908.

2. The dispute relates to Respondent No.1, which is a public charitable trust duly registered under the provisions of the said Act of 1950. An application was made by some persons claiming to be the Trustees of the said Trust by invoking the provisions of section 50(A)(1) of the said Act of 1950 for framing a scheme. On the said application, an order was passed on 26th March 2002 by the learned In-charge Deputy Charity Commissioner, Pune, framing the scheme. The said order of the learned Deputy Charity Commissioner was challenged by the Appellant by filing an application under section 72 of the said Act of 1950. The said

application under section 72 of the said Act of 1950 has been dismissed by the impugned order.

3. The learned Advocate for the Appellant submitted that the Deputy Charity Commissioner has no power to frame scheme only on the ground that there was mismanagement on the part of the Trustees. Secondly, he submitted that the Appellant was not even given an opportunity of being heard before the Scheme was framed. He pointed out that earlier the Appellant has been the President of the Trust. He submitted that on the date on which the Application was filed under section 50(A)(1) of the said Act of 1950 by some other persons claiming to be the Trustees for framing a scheme, the Appellant was a life member of the Trust. He submitted that the order passed by the Deputy Charity Commissioner is vitiated as the Appellant was not given an opportunity of being heard.

3. I have considered the submissions. The power under section 50(A)(1) of the said Act of 1950 vests in the Charity Commissioner to settle a scheme in the interest of the proper management or administration of a public trust. The Deputy Charity Commissioner has recorded a finding that it was necessary to frame the Scheme as for number of years the Trust was not properly administered. In fact it is observed that the learned Joint Charity Commissioner of Pune was required to intervene and appoint two caretakers for administration

of Respondent No.1-Trust. It is observed that the present set of Rules and Regulations of the Respondent No.1-Trust was adopted 40 years ago and the said Rules are not adequate to ensure proper administration of the Trust. In short, the reason given by the learned Deputy Charity Commissioner is that the Trust could not be properly administered and Rules which are in existence for 40 years are not adequate to ensure proper administration of the Trust. There is a power vesting in the Deputy Charity Commissioner under section 50(A)(1) of the said Act of 1950 to settle a scheme in the interest of proper management and administration of public trust. Thus on the grounds which are mentioned in the order of the Deputy Charity Commissioner, the power of settling the scheme has been validly exercised. So far as the second point canvassed by the learned Advocate for the Appellant is concerned, as per the requirement of sub-section (1) of section 50(A) before settling a scheme, an opportunity of hearing has to be afforded to the Trustees. There is nothing in the Scheme of the Act which requires the Charity Commissioner to give hearing to every individual member before settlement of the scheme.

5. There is no merit in the submissions of the learned Advocate for the Appellant. The Appeal is dismissed.

Judge.